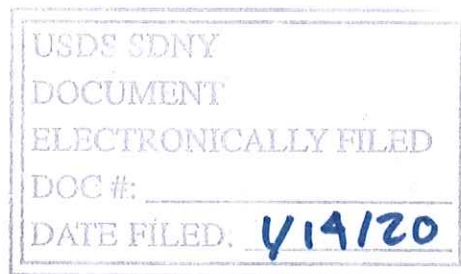


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-v-

AMERINDO INVESTMENT ADVISORS
INC., *et al.*,

Defendants.

No. 05-cv-5231 (RJS)

ORDER

UNITED STATES OF AMERICA

-v-

ALBERTO WILLIAM VILAR, *et al.*,

Defendants.

No. 05-cr-621 (RJS)

RICHARD J. SULLIVAN, Circuit Judge:

WHEREAS, on or about August 15, 2006, ALBERTO WILLIAM VILAR and GARY ALAN TANAKA (collectively, the "Defendants") were charged in a twelve-count Superseding Indictment, S3 05 Cr. 621 (KMK) (the "Indictment");

WHEREAS, the Indictment contained a forfeiture allegation seeking, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the forfeiture of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts 1 through 11 of the Indictment;

WHEREAS, the Indictment also included a substitute asset provision providing that if, as a result of the Defendants' actions or omissions, forfeitable property was unable to be located or

obtained, the United States would seek, pursuant to Title 21, United States Code, Section 853(p), the forfeiture of any other property of the Defendants;

WHEREAS, on or about November 19, 2008, a jury returned a guilty verdict against Defendant Vilar on all twelve counts of the Indictment and against Defendant Tanaka on Counts One, Three, and Four of the Indictment;

WHEREAS, on or about April 25, 2014, the Court entered Preliminary Orders of Forfeiture/Money Judgment imposing joint and several money judgments against the Defendants in the amount of \$20,578,855.28, representing the amount of proceeds they obtained as a result of the offenses (the “Money Judgments”) (Dtk. Nos. 684 & 687);

WHEREAS, on or about August 2, 2019, the Court entered a Preliminary Order of Forfeiture as to Substitute Assets forfeiting all of Defendants’ right, title and interest in the following funds and brokerage accounts:

- a. J.P. Morgan Chase brokerage account numbers:
 - i. 102-17995 MOL, held in the name of Techno Raquia, S.A., Ian Gazes Receiver c/o Gazes LLC;
 - ii. 102-01485 MOL, held in the name of Amerindo Management Inc., sub-Account M26, Ian Gazes Receiver c/o Gazes LLC;
 - iii. 102-01495 MOL, held in the name of Amerindo Technology Growth Fund II, Inc., Ian Gazes Receiver c/o Gazes LLC;
 - iv. 102-15833, held in the name of Olafson, Inc., Ian Gazes Receiver c/o Gazes LLC;
 - v. 102-25612, held in the name of Amerindo Investment Advisors, Inc. Money Purchase Plan and Trust Alberto Vilar TTEE DTD 5/1/94 c/o Gazes LLC Ian Gazes; and
- b. Approximately \$273,611.89 in funds formerly held by @Ventures Management, LLC for the benefit of Amerindo Technology Growth Fund II, Inc.

(collectively, the “Substitute Assets”) (Dkt. No. 802).

WHEREAS, on or about September 20, 2019, the Securities and Exchange Commission (“SEC”) filed a petition for remission/mitigation with the Court claiming an interest in the Substitute Assets based on the judgments obtained by the SEC in the parallel civil proceeding *SEC*


v. Amerindo Advisors Inc., et al., No. 05-5291 (RJS) (SDNY) (the “SEC Petition”), specifically stating that, “[t]o the extent practicable, the SEC [would] distribute any recoveries from this Petition to creditors of the defendants and their affiliated entities who have allowed claims in the Receivership in the SEC Action” (Dkt. No. 823);

WHEREAS the SEC has agreed to withdraw the SEC Petition because eligible claimants may proceed directly against the Substitute Assets (Dkt. No. 860);

IT IS HEREBY ORDERED THAT, upon request of the SEC and consent of the government, the SEC Petition is dismissed with prejudice.

SO ORDERED.

Dated: January 14, 2020
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation